6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0368; FRL-8716-01-R9]

Air Plan Approval; Nevada; Revisions to Clark County Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State of Nevada's state implementation plan (SIP) for Clark County. The revision consists of an update to certain elements of the maintenance plan for the Clark County air quality planning area for the 1997 8-hour ozone national ambient air quality standards (NAAQS or "standards"), including certain emissions inventories and motor vehicle emissions budgets. The EPA is proposing to approve the SIP revision because the Clark County ozone maintenance plan, as revised, continues to provide for maintenance of the 1997 ozone NAAQS and will not interfere with attainment or reasonable further progress of the other NAAQS, and the motor vehicle emissions budgets meet the applicable transportation conformity requirements.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2021-0368, at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; By phone: (775) 434-8176 or by email at *oconnor.karina@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," or "our" refer to the EPA.

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I. What Action is the EPA Proposing?

Under section 110(k) of the Clean Air Act ("Act" or CAA), the EPA is required to take action by approving, disapproving, or conditionally approving, in whole or in part, SIPs and SIP revisions submitted by the states. In today's action, the EPA is proposing to approve a SIP

revision titled "Revision to Motor Vehicle Emissions Budgets for the 1997 Ozone NAAQS, Clark County, Nevada" (August 2020) (herein, referred to as the "2020 Ozone Maintenance Plan Revision"), submitted by the Nevada Division of Environmental Protection (NDEP) on September 30, 2020.[1] The 2020 Ozone Maintenance Plan Revision updates certain elements of the maintenance plan for Clark County for the 1997 ozone NAAQS, including certain emissions inventories and the motor vehicle emissions budgets ("budgets" or MVEBs). The 2020 Ozone Maintenance Plan Revision was prepared in response to the EPA's conditional approval of the "Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada" (October 2018) (herein, referred to as the "2018 Ozone Maintenance Plan Revision").[2] The 2020 Ozone Maintenance Plan Revision revises certain budgets from the 2018 Ozone Maintenance Plan Revision to prevent interference with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS. If the EPA takes final action to approve the 2020 Ozone Maintenance Plan Revision, the revised budgets will replace Clark County's existing budgets for the plan horizon year (2022) for the 1997 ozone NAAQS. At that time, the previously-approved budgets would no longer be applicable for transportation conformity purposes, and the revised budgets would need to be used beginning on the publication date of the EPA's final approval in the *Federal Register*.[3]

II. Background

A. NAAQS, SIPs, Designations, and Clark County

Under section 109 of the CAA, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone. The NAAQS are concentration levels that, the attainment and maintenance of which, the EPA has determined to be requisite to protect public health and welfare. Under CAA section 107(d), the EPA must designate all areas of the country as

[1] NDEP submitted the 2020 Ozone Maintenance Plan Revision electronically on September 30, 2020, as an attachment to a transmittal letter dated September 25, 2020.
[2] 84 FR 44699 (August 27, 2019).
[3] 40 CFR 93.118(f)(2)(v).

attainment, nonattainment or unclassifiable for new or revised NAAQS. Section 110 of the CAA requires states to develop and submit SIPs to implement, maintain, and enforce the NAAQS. Once a nonattainment area has attained the NAAQS, the state may request redesignation of the area from nonattainment to attainment, and the EPA grants such requests if the criteria in CAA section 107(d)(3)(E) are met, including the approval of a maintenance plan (under CAA section 175A) that demonstrates how the area will maintain the NAAQS for at least 10 years after the redesignation. Such former nonattainment areas that have been redesignated to attainment are referred to as "maintenance areas."

In 1997, the EPA replaced the 1-hour ozone[4] NAAQS at a level of 0.12 parts per million (ppm) with an 8-hour ozone NAAQS at a level of 0.08 ppm (herein, the "1997 ozone NAAQS").[5] In 2004, the EPA designated a portion of Clark County as a "Subpart 1" nonattainment area for the 1997 ozone NAAQS.[6] In 2011, the EPA determined that the Clark County 8-hour ozone nonattainment area had attained the 1997 8-hour ozone NAAQS, based on complete, quality-assured, and certified ambient air monitoring data that showed the area monitored attainment of the 1997 ozone NAAQS for the 2007–2009 monitoring period.[7]

In light of ambient monitoring data showing that the Clark County ozone nonattainment area had attained the 1997 ozone NAAQS, NDEP submitted a request to redesignate the Clark County ozone area from nonattainment to attainment and submitted the "Ozone Redesignation Request and Maintenance Plan, Clark County, Nevada (March 2011)" (herein, the "2011 Ozone

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[4] Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints.

[5] 62 FR 38856 (July 18, 1997) and 40 CFR 50.10.

[6] 69 FR 23858 (April 30, 2004) and 69 FR 55956 (September 17, 2004). The Clark County ozone nonattainment area for the 1997 ozone NAAQS includes a significant portion of the unincorporated portions of central and southern Clark County, as well as the cities of Las Vegas, Henderson, North Las Vegas, and Boulder City. The "Subpart 1" classification meant that the area was subject solely to the general nonattainment area requirements under subpart 1 of part D (of title I) of the CAA rather than to the requirements under both subparts 1 and the ozone-specific requirements under subpart 2. Several years later, in response to litigation over the designations for the 1997 ozone NAAQS, the EPA revised the classification of the Clark County ozone nonattainment area from "Subpart 1" to "Subpart 2/Marginal." 77 FR 28424 (May 14, 2012).

[7] 76 FR 17343 (March 29, 2011).

Maintenance Plan") to the EPA for approval as a revision to the Clark County portion of the Nevada SIP. Prepared by the Clark County Department of Air Quality and Environmental Management (currently named "Department of Environment and Sustainability" (DES)),[8] the 2011 Ozone Maintenance Plan includes the required elements for maintenance plans, including an attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, contingency plan, and budgets.[9] The 2011 Ozone Maintenance Plan demonstrates maintenance of the 1997 ozone NAAQS through year 2022 by reference to emissions inventories developed for years 2015 and 2022 that show emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in those years would not exceed the level of the corresponding emissions of the 2008 attainment inventory. The 2011 Ozone Maintenance Plan established budgets for NO_X and VOC for years 2008, 2015, and 2022. The budgets were derived from the on-road motor vehicle emissions estimates prepared using the EPA's then-current on-road vehicle emissions model, MOBILE6.2, and the most recent vehicle mix and activity data available from the Regional Transportation Commission of Southern Nevada. In 2013, the EPA approved the 2011 Ozone Maintenance Plan and redesignated the Clark County ozone nonattainment area to attainment for the 1997 ozone NAAQS.[10]

Through adoption of the 2011 Ozone Maintenance Plan, Clark County DES committed to maintaining an ambient air quality monitoring network to verify the continued attainment of the 1997 ozone NAAQS in the Clark County ozone maintenance area.[11] At the present time, 10 monitoring sites continuously monitor ambient concentrations of ozone within the maintenance area. Since 2008, i.e., the year used for the attainment inventory in the 2011 Ozone Maintenance

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[8] In the State of Nevada, NDEP is the Governor's designee for adoption and submittal of SIPs and SIP revisions to the EPA. In Clark County, the Clark County DES is responsible under state law for regulation of most types of stationary sources within the county and for development of local air quality plans. Once adopted by the Clark County Board of County Commissioners, such county plans are forwarded to NDEP for adoption and submittal to the EPA as revisions to the Nevada SIP.

[9] Under the EPA's transportation conformity rule, at 40 CFR 93.101, budgets are defined as the portions of the total allowable emissions that are allocated to on-road vehicle use that, together with emissions from other sources in the area, will provide for RFP, attainment or maintenance. The budgets serve as a ceiling on emissions from an area's planned transportation system.

[10] 78 FR 1149 (January 8, 2013).

[11] 2011 Ozone Maintenance Plan, 6–11.

Plan, ambient ozone concentrations in Clark County have decreased. As shown in Table 1, 8-hour ozone design values have decreased from 0.082 ppm in 2008 to 0.073 ppm in 2019.[12] In more recent years, the design value has remained relatively steady, varying little from year to year. Table 1 shows that Clark County has maintained the 1997 ozone NAAQS through the first seven years (2013 through 2019) of the first maintenance period.

Table 1 – Eight-Hour Ozone Design Values for the Clark County Ozone Maintenance Area, 2008-2020

Year	Design Value (ppm)
2008	0.082
2009	0.078
2010	0.076
2011	0.075
2012	0.076
2013	0.077
2014	0.078
2015	0.075
2016	0.075
2017	0.074
2018	0.076
2019	0.073
2020	0.074

Source: The EPA's 2017 and 2020 Ozone Design Values Reports at *https://www.epa.gov/air-trends/air-quality-design-values#report*. Note that design values reported for a given year reflect data from that year and the two previous years, e.g., the design value for 2008 reflects data from 2006-2008.

B. 2008 and 2015 Ozone NAAQS

In 2008, the EPA lowered the ozone NAAQS to a level of 0.075 ppm, 8-hour average (herein, the "2008 ozone NAAQS"),[13] and in 2012, the EPA designated all of the hydrographic areas within the State of Nevada as "Unclassifiable/Attainment" for the 2008 ozone NAAQS.[14] Because all the hydrographic areas located entirely, or partially, within Clark County were

[12] Under EPA regulations at 40 CFR 50.10 and appendix I, the 1997 ozone NAAQS is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm (based on the rounding convention in 40 CFR part 50, appendix I) at each monitoring site within the area, then the area is meeting the 1997 ozone NAAQS. The highest design value among the various ozone monitoring sites represents the design value for the area.

[13] 73 FR 16436 (March 27, 2008) and 40 CFR 50.15.

[14] 77 FR 30088 (May 21, 2012). Hydrographic areas are those that are shown on the State of Nevada Division of Water Resources' map titled "Water Resources and Inter-basin Flows" (September 1971).

designated as unclassifiable/attainment for the 2008 ozone NAAQS, no reasonable further progress (RFP) or attainment SIP revision was required for any portion of the county.

In 2015, the EPA further lowered the ozone NAAQS to 0.070 ppm, 8-hour average (herein the "2015 ozone NAAQS").[15] In 2018, the EPA designated the Las Vegas Valley portion of Clark County as a "Marginal" nonattainment area for the 2015 ozone NAAQS, effective August 3, 2018.[16] The nonattainment area designation for Las Vegas Valley for the 2015 ozone NAAQS triggered the requirement for certain SIP revisions under CAA section 182(a) and the EPA's related SIP Requirements Rule promulgated at 40 CFR part 51, subpart CC.

C. Transportation Conformity and the 2018 Ozone Maintenance Plan Revision

The EPA's transportation conformity rule at 40 CFR part 93, subpart A establishes the criteria and procedures that metropolitan planning organizations (MPOs) and the U.S. Department of Transportation (DOT) must use to determine whether transportation activities conform to the SIP. Transportation conformity applies to areas that are designated nonattainment and those former nonattainment areas that have been redesignated to attainment and have a CAA section 175A maintenance plan ("maintenance areas"), but does not apply to areas designated as attainment or unclassifiable.[17] In Clark County, the area's MPO, the Regional Transportation Commission of Southern Nevada (RTC), and DOT are the relevant transportation agencies that must determine the conformity of transportation plans and transportation improvement plans (TIPs) within Clark County.

Under our transportation conformity rule, the latest approved or adequate emissions budgets for a previous ozone NAAQS (i.e., the 2008 or the 1997 ozone NAAQS) must be used in conformity determinations for the 2015 ozone NAAQS until emission budgets are established and found adequate or are approved for the 2015 ozone NAAQS. Because the latest approved or adequate emissions budgets for a previous ozone NAAQS for Clark County are the approved

[15] 80 FR 65292 (October 26, 2015) and 40 CFR 50.19.
[16] 83 FR 25776 (June 4, 2018).
[17] CAA section 176(c)(5).

budgets for the 1997 8-hour ozone NAAQS, the RTC and DOT must use these budgets for conformity determinations for the 2015 ozone NAAQS[18] until they are replaced by updated budgets for the 2015 ozone NAAQS.

In 2018, NDEP submitted the 2018 Ozone Maintenance Plan Revision as a revision to the Clark County portion of the Nevada SIP. The 2018 Ozone Maintenance Plan Revision includes revisions to the attainment inventory, the maintenance demonstration, and budgets in the 2011 Ozone Maintenance Plan to reflect updated emissions models, vehicle mix and speed data, and transportation activity projections. The 2018 Ozone Maintenance Plan Revision revised the budgets for NO_X and VOC for years 2008, 2015, and 2022. The revised budgets were derived from the on-road motor vehicle emissions estimates prepared using the most recent version of the EPA's on-road vehicle emissions model available at the time (MOVES2014a) and updated planning variables (e.g., vehicle miles traveled projections and population forecasts) from the RTC. The 2018 Ozone Maintenance Plan Revision was developed so that the RTC and DOT would have updated budgets available to use for transportation conformity determinations with respect to the 2015 ozone NAAQS until budgets developed specifically for the 2015 ozone NAAQS are adopted and found to be adequate or approved. In 2019, the EPA conditionally approved the 2018 Ozone Maintenance Plan Revision as a revision of the Clark County portion of the Nevada SIP.[19]

In so doing, we found that the 2011 Ozone Maintenance Plan, as revised by the updated attainment inventory and maintenance demonstration in the 2018 Ozone Maintenance Plan Revision, continues to provide for maintenance of the 1997 ozone NAAQS, and upon fulfillment of the commitments made by NDEP and Clark County DES to reduce the safety margin allocations for the budgets, will not interfere with RFP or attainment of the other NAAQS in

[18] The EPA's guidance "Transportation Conformity Guidance for the South Coast II Court Decision" (November 2018, EPA-20-B-18-050), explains that while conformity requirements continue to apply for the revoked 1997 ozone NAAQS, conformity can be demonstrated without a regional emissions analysis for the 1997 ozone standard.
[19] 84 FR 44699 (August 27, 2019).

Clark County. In conditionally approving the 2018 Ozone Maintenance Plan Revision, the EPA also found adequate and conditionally approved the updated NO_X and VOC budgets for 2008, 2015, and 2022 for the 1997 ozone NAAQS based on our conclusion that the updated budgets meet the applicable transportation conformity requirements. The approval was conditional because it is based on commitments by Clark County DES and NDEP to submit an additional SIP revision to reduce the safety margin allocations for the budgets in the 2018 Ozone Maintenance Plan Revision within one year of this final conditional approval.

In September 2020, NDEP submitted the 2020 Ozone Maintenance Plan Revision to the EPA in fulfillment of the commitments made by Clark County DES and NDEP in connection with the EPA's conditional approval of the 2018 Ozone Maintenance Plan Revision. The 2020 Ozone Maintenance Plan Revision is the subject to today's proposed action.

III. What Did the State Submit?

On August 18, 2020, the Clark County Board of County Commissioners adopted the 2020 Ozone Maintenance Plan Revision and forwarded the plan to NDEP for adoption and submittal to the EPA.[20] On September 30, 2020, NDEP submitted the 2020 Ozone Maintenance Plan Revision to the EPA as a revision to the Clark County portion of the Nevada SIP.[21] The 2020 Ozone Maintenance Plan Revision also includes a technical support document (appendix A of the plan revision) and documentation of the public review process (appendix B of the plan revision).

Through the 2020 Ozone Maintenance Plan Revision, Clark County DES is updating the emissions projections for the ozone maintenance plan horizon year of 2022 based on the latest available emissions models, vehicle mix and speed data, and transportation activity projections and is revising the budgets for 2022 to reflect the updated projections for that year and to include a reduced safety margin compared to the corresponding budgets from the 2018 Ozone

[20] Clark County Board of County Commissioners Meeting, Meeting Summary, October 16, 2018, 14 and 15.
[21] Letter dated September 25, 2020, from Greg Lovato, Administrator, NDEP to Elizabeth Adams, Director, Air Division, EPA Region IX, (submitted electronically on September 30, 2020 with enclosures).

Maintenance Plan Revision. The 2020 Ozone Maintenance Plan Revision also presents a new emissions inventory for year 2017 that provides the basis to evaluate the new budgets with respect to continued attainment of the 2008 ozone NAAQS and progress towards attainment of the 2015 ozone NAAQS in Las Vegas Valley.

IV. Procedural Requirements for Adoption and Submittal of SIP Revisions

Sections 110(a)(1) and (2) and 110(l) of the CAA require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submittal of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

The Clark County Board of County Commissioners and NDEP have satisfied applicable statutory and regulatory requirements for reasonable public notice and public hearing prior to adoption and submittal of the 2020 Ozone Maintenance Plan Revision. In the September 30, 2020 SIP submittal,[22] Clark County DES provided evidence of the required public notice and opportunity for public comment prior to the August 18, 2020 public hearing and adoption of the 2020 Ozone Maintenance Plan Revision. Therefore, we find that the submittal of the 2020 Ozone Maintenance Plan Revision meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102.

V. The EPA's Evaluation of the 2020 Ozone Maintenance Plan Revision

Clark County DES and NDEP submitted the 2020 Ozone Maintenance Plan Revision to fulfill commitments made in connection with the EPA's conditional approval of the 2018 Ozone Maintenance Plan Revision to reduce the safety margin allocations in the budgets to ensure that the Clark County ozone SIP will not interfere with RFP or attainment of the 2008 and 2015

[22] Appendix B provides evidence that reasonable notice of a public hearing was provided to the public and that a public hearing was conducted prior to adoption. Specifically, notice of the availability of, and opening of a 30-day comment period on the draft ozone maintenance plan revision was published on June 25, 2020, on the County's webpage. No comments were submitted.

ozone NAAQS consistent with CAA section 110(l). As described further below, we have reviewed the 2020 Ozone Maintenance Plan Revision for compliance with the relevant requirements for maintenance plans under CAA section 175A and for noninterference under CAA section 110(l), and we have evaluated the budgets in the 2020 Ozone Maintenance Plan Revision for compliance with the budget adequacy criteria in 40 CFR 93.118(e).

A. Emissions Inventories

The 2020 Ozone Maintenance Plan Revision includes inventories of emissions of ozone precursors (VOC and NO_X) for years 2017 and 2022. The 2017 inventory provides estimates of actual emissions that occurred in that year. Clark County DES selected 2017 as the base year for the 2020 Ozone Maintenance Plan Revision for the following reasons: it is the most recent year for which National Emissions Inventory[23] (NEI) emissions estimates were available at the time the plan was being developed; it is an attainment year for the 2008 ozone NAAQS; and it is the base year for SIP planning purposes for the 2015 ozone NAAQS. Clark County DES used the 2017 inventory to revise the 2022 emissions inventory from the 2018 Ozone Maintenance Plan Revision based on the latest methods and planning assumptions.

As a general matter, base year emissions inventories must be (1) consistent with the EPA's most recent guidance on emissions inventories available at the time, (2) comprehensive, including emissions from stationary point sources, area sources, nonroad mobile sources, and on-road mobile sources, and (3) based on actual "ozone season data" (i.e., summertime) emissions.[24]

The 2017 year inventory in the 2020 Ozone Maintenance Plan Revision is comprehensive in that it includes estimates of summertime average weekday VOC and NO_X emissions from all of

[23] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The NEI is released every three years based primarily upon data provided by State, Local, and Tribal air agencies for sources in their jurisdictions and supplemented by data developed by the EPA.

[24] In Clark County, Nevada, the highest ambient ozone concentrations generally occur during the months of the year when the highest temperatures occur - typically from May through September. For SIP planning purposes, Clark County has selected weekdays in the month of July as the basis to estimate typical summertime weekday emissions.

the relevant source categories, which the plan divides among point sources,[25] nonpoint sources,[26] commercial aviation, federal aviation (i.e., Nellis Air Force Base), on-road mobile, nonroad mobile, and biogenic[27] sources.[28] For comparison, the 2018 Ozone Maintenance Plan Revision did not include a 2017 inventory, but emissions for 2017 can be interpolated from 2015 and 2022 emissions. Appendix A to the 2020 Ozone Maintenance Plan Revision contains source-specific descriptions of emission calculation procedures and sources of input data used for the update.

Table 2 below compares the 2017 inventory from the 2020 Ozone Maintenance Plan Revision with the corresponding interpolated inventory from the 2018 Ozone Maintenance Plan Revision. As shown in Table 2, the change in the 2017 inventory in the 2020 Ozone Maintenance Plan Revision is primarily due to the update to the on-road mobile source category and the nonroad source category as well as a change in the methodology for biogenic emissions.

Table 2 – 2017 Clark County Ozone Precursor Emission Inventory (county-wide, average summer weekday, tons per day)

	NO_X Emissions		**VOC Emissions**	
Source Category	**2020 Ozone Maintenance Plan Revision**	**2018 Ozone Maintenance Plan Revision**	**2020 Ozone Maintenance Plan Revision**	**2018 Ozone Maintenance Plan Revision**
Point source	12.40	11.79	2.95	2.51
Nonpoint source	7.651	5.68	62.56	59.94
Commercial aviation	11.47	13.38	1.73	2.75
Federal aviation	0.50	1.77	0.24	1.04
On-road mobile	46.96	53.65	29.47	28.49
Nonroad mobile	37.45	24.78	28.25	30.36
Biogenic	2.43	5.00	362.61	132.00
Total	118.86	116.06	487.81	257.09

Sources: 2018 Ozone Maintenance Plan Revision, interpolated values from Tables 2-1 and 2-2; 2020 Ozone Maintenance Plan Revision, Tables 2-1 and 2-2.

With respect to on-road mobile source emissions, Clark County DES updated the emissions estimates using MOVES2014b, RTC travel demand modeling, and highway

[25] The 2020 Ozone Maintenance Plan Revision uses the term, "point sources," to refer to those stationary source facilities that are required to report their emissions to Clark County DES or NDEP.
[26] The 2020 Ozone Maintenance Plan Revision uses the term, "nonpoint sources," to refer to those stationary and area sources that fall below point source reporting levels and that are too numerous or small to identify individually.
[27] For the 2020 Ozone Maintenance Plan Revision, "biogenic sources" include the following: agricultural crops; lawn grass; forests that produce isoprene, monoterpene, alpha-pinene, and other VOC emissions; and soils that generate trace amounts of NO_x.
[28] See Table 2-1 in the 2020 Ozone Maintenance Plan Revision.

performance monitoring system data from the Nevada Department of Transportation.[29] Clark County DES also selected the inventory mode, rather than the emission rate mode used in the 2018 Ozone Maintenance Plan Revision, with MOVES2014b emissions factors and projected emissions for 2022 from 2017 rather than 2015. Generally, on-road mobile source emissions estimates made using MOVES2014b are similar to MOVES2014a. With respect to nonroad emissions sources, the change in the 2017 emissions inventory is largely due to the use of the nonroad module of MOVES2014b that was released in August 2018. Clark County DES used default estimates from MOVES2014b for Clark County and the most significant changes were in the two largest sectors: construction and lawn/garden, which increased and decreased, respectively. Overall, nonroad emissions are higher for NO_X but lower for VOC using MOVES2014b compared to using the nonroad module of MOVES2014a.

Biogenic emissions for Clark County were developed using the EPA's Biogenic Emission Inventory System[30] (BEIS) version 3.61, which replaced the Emissions of Gasses and Aerosols from Nature (MEGAN) model used by Clark County DES for the 2011 Ozone Maintenance Plan[31] and the 2018 Ozone Maintenance Plan Revision. The BEIS model allows for interactions between air quality and meteorology. In 2017, the EPA updated the BEIS v3.61 to include the biogenic emissions landcover database version 5 (BELD5) and the newer version of the forest inventory and analysis version 8.0. This updated model improved the biogenic VOC emissions estimates. Clark County DES used the updated BEIS model, which is part of SMOKE 4.7 (Sparse Matrix Operator Kerner Emissions) model, to generate the biogenic emissions for Clark County.[32] The results show a slight decrease in NO_X and large increase in VOC biogenic emissions relative to the corresponding emissions estimates from the 2011 Ozone Maintenance Plan and 2018 Ozone Maintenance Plan Revision.

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[29] 2020 Ozone Maintenance Plan Revision, Appendix A, 4-12.
[30] *https://www.epa.gov/air-emissions-modeling/biogenic-emission-inventory-system-beis.*
[31] 2011 Ozone Maintenance Plan, 6-4.
[32] 2020 Ozone Maintenance Plan Revision, 14.

Based on our review of the emissions inventories (and related documentation) from the 2020 Ozone Maintenance Plan Revision, we find that the inventories for 2017 are comprehensive, that the methods and assumptions used by Clark County DES to develop the 2017 emission inventory are reasonable, and that the inventories reasonably estimate actual ozone season emissions in 2017. Moreover, we find that the 2017 emissions inventories in the plan reflect the latest planning assumptions and emissions models available at the time the 2020 Ozone Maintenance Plan Revision was developed.

To provide the basis for the comparison of future emissions with the updated 2017 emissions, Clark County DES updated the 2022 emissions inventories using the same approaches as described above for the 2017 emissions inventory. Clark County DES allocated the same amount of emissions reductions credits (ERCs), for use in connection with the new major stationary source permitting program, for 2022 as had been allocated for that year in the 2018 Ozone Maintenance Plan Revision. With respect to transportation conformity safety margins, as described further in section V.B of this document, the Clark County DES significantly reduced the safety margins that had been included in budgets for the 2018 Ozone Maintenance Plan Revision. Table 3 below compares the NO_X and VOC emissions inventories, respectively, for 2022 from the 2020 Ozone Maintenance Plan Revision with the corresponding values from the 2018 Ozone Maintenance Plan Revision.

Table 3 – 2022 Clark County Ozone Precursor Emission Inventory (county-wide, average summer weekday, tons per day)

	NO_x Emissions		**VOC Emissions**	
Source Category	**2020 Ozone Maintenance Plan Revision**	**2018 Ozone Maintenance Plan Revision**	**2020 Ozone Maintenance Plan Revision**	**2018 Ozone Maintenance Plan Revision**
Point source	12.09	12.26	3.12	2.72
Nonpoint source	7.57	5.04	62.58	59.49
Commercial aviation	13.08	17.42	1.73	2.95
Federal aviation	1.97	2.26	0.82	0.95
On-road mobile	29.16	27.02	20.92	17.12
Nonroad mobile	24.93	17.50	26.71	28.52
Biogenic	2.43	5.00	362.61	132.00
Emission reduction credits	22.23	22.23	0.43	0.43

Transportation conformity safety margins	3.00	59.72	3.00	35.84
Total	116.46	168.45	484.92	280.02

Sources: 2018 Ozone Maintenance Plan Revision, Tables 2-1, 2-2 and 3-1; 2020 Ozone Maintenance Plan Revision, Tables 2-1, 2-2 and 3-1.

As shown in Table 3, emissions for 2022 in the 2020 Ozone Maintenance Plan Revision are similar to the corresponding emissions in the 2018 Ozone Maintenance Plan Revision except for biogenic emissions. Similar to the comparison of the emission inventories for the year 2017, differences are again primarily due to the updates to the on-road mobile source category, the nonroad source category, and the change in the methodology for biogenic emissions. The on-road mobile source emission estimates in the 2020 Ozone Maintenance Plan Revision reflect the most recent published data concerning vehicle registration data, vehicle miles traveled (VMT) temporal distribution, VMT mix profiles, vehicle speeds, and travel demand forecasts from RTC.[33]

Based on our review of the methods, assumptions, and data sources, as described in Appendix A to the 2020 Ozone Maintenance Plan Revision, we find that the Clark County DES estimates for 2017 and 2022 for the various source categories to be based on the best available emissions models and data sources, and thus to provide a reasonable basis upon which to evaluate whether the area will continue to maintain the 1997 ozone NAAQS through 2022 and whether the revised budgets for 2022 in the 2020 Ozone Maintenance Plan Revision would interfere with RFP or attainment of the 2008 and 2015 ozone NAAQS.

B. Revised Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) cause or contribute to violations of a NAAQS,

[33] Key references used by Clark County DES include Eastern Research Group's "Clark County On-Road Vehicle Classification Study," final report, June 29, 2018, and the Coordinating Research Council's "Improvement of Default Inputs for MOVES and SMOKE-MOVES, final report, February 2017.

(2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Under the transportation conformity rule, MPOs in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, the Federal Highway Administration, and the Federal Transit Administration to demonstrate that an area's regional transportation plans and TIPs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the budgets contained in all control strategy or maintenance SIPs. Budgets are generally established for specific years and specific pollutants or precursors. Ozone maintenance plans should identify budgets for on-road emissions of ozone precursors (NO_X and VOC) in the area for the last year of the maintenance period. Budgets may also be specified for additional years during the maintenance period.

For budgets to be approvable, they must meet the EPA's adequacy criteria (40 CFR 93.118(e)(4) and (5)) and comply with all pertinent SIP requirements. With respect to maintenance plans, to meet these requirements, the budgets must be consistent with the maintenance plan and reflect all the motor vehicle control measures contained in the maintenance demonstration.[34] The EPA's process for determining adequacy of a budget consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the budget during a public comment period; and, (3) making a finding of adequacy or inadequacy.[35] We will complete the adequacy review of the budgets in the 2020 Ozone Maintenance Plan Revision concurrent with our final action on the 2020 Ozone Maintenance Plan Revision. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them.[36]

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[34] 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on budgets, please visit our transportation conformity web site at: *http://www.epa.gov/otaq/stateresources/transconf/index.htm*.

[35] 40 CFR 93.118(f)(2).

[36] Under the transportation conformity regulations, the EPA may review the adequacy of submitted motor vehicle

The 2020 Ozone Maintenance Plan Revision includes revised budgets for VOC and NO_X for the last year of the initial maintenance period, i.e., 2022.[37] The revised budgets from the 2020 Ozone Maintenance Plan Revision are shown in Table 4 below and compared with the corresponding budgets from the approved 2018 Ozone Maintenance Plan Revision. As noted in section V.A of this document, Clark County DES developed the revised budgets using the latest emissions model (MOVES2014b) available at the time the 2020 Ozone Maintenance Plan Revision was being developed, and the most recent travel activity projections provided by the Nevada Department of Transportation and RTC. Therefore, we find that the revised budgets reflect the most recent planning forecasts and are based on the most recent emission factor data and approved calculation methods.

A state may choose to allocate all or a portion of the safety margin[38] under the EPA transportation conformity rule so long as such margins are explicitly quantified in the applicable plan and are shown to be consistent with attainment or maintenance of the NAAQS (whichever is relevant to the particular plan).[39] For the 2020 Ozone Maintenance Plan Revision, Clark County DES allocated a 3 tons per day (tpd) safety margin for NO_X and VOC in 2022 to the projected on-road emissions estimates for NO_X and VOC.

Table 4 – Clark County Year 2022 Ozone Motor Vehicle Emission Budgets (county-wide, average summer weekday, tpd)

Source Category	2018 Ozone Maintenance Plan Revision	2020 Ozone Maintenance Plan Revision

emission budgets simultaneously with the EPA's approval or disapproval of the submitted implementation plan. 40 CFR 93.118(f)(2).

[37] The 2020 Ozone Maintenance Plan Revision does not revise the 2015 budgets from the 2018 Ozone Maintenance Plan Revision that also included large safety margins; however, we note that, given the passage of time, the 2015 budgets from the 2018 Ozone Maintenance Plan Revision will no longer be used for conformity determinations and thus the failure to reduce the safety margins of the 2015 budgets in the 2018 Ozone Maintenance Plan Revision is acceptable.

[38] In this context, "safety margin" means the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirements for reasonable further progress, attainment or maintenance. With respect to the 2020 Ozone Maintenance Plan Revision, the safety margin is the difference between the projected emissions in 2022 of NO_X and VOC and the actual emissions of NO_X and VOC in the 2008 attainment year as updated in the 2018 Ozone Maintenance Plan Revision. The anthropogenic emissions (i.e., excluding biogenic emissions) of NO_X and VOC in 2008 were approximately 178 tons per day (tpd) and 157 tpd, respectively. The 2020 Ozone Maintenance Plan Revision continues to provide for maintenance of the 1997 ozone NAAQS because the anthropogenic emissions of NO_X and VOC in 2022 (including the ERCs and transportation conformity safety margins) would be approximately 114 tpd and 122 tpd, respectively, which is substantially less than the emissions in the attainment year (2008) for the 1997 ozone NAAQS.

[39] See 40 CFR 93.124(a).

	NO_X	VOC	NO_X	VOC
On-Road Mobile	27.02	17.12	29.16	20.92
Transportation Conformity Safety Margins	59.72	35.84	3.00	3.00
Budgets	86.74	52.96	32.16	23.92

Sources: 2018 Ozone Maintenance Plan Revision, Table 3-1; 2020 Ozone Maintenance Plan Revision, Table 3-1.

As documented in a April 20, 2021 memorandum to the docket for this rulemaking, we find that the budgets in the 2020 Ozone Maintenance Plan Revision meet each adequacy criterion.[40] In short, we reviewed the budgets in the 2020 Ozone Maintenance Plan Revision and found that they are consistent with the revised maintenance demonstration from the 2018 Ozone Maintenance Plan Revision; are based on control measures that have already been adopted and implemented; and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.1118(e)(4) and (5). Therefore, we are proposing to approve the 2022 budgets in the 2020 Ozone Maintenance Plan Revision. If we finalize our approval of the revised budgets in the 2020 Ozone Maintenance Plan Revision, as proposed, they will replace the corresponding budgets for the 1997 ozone NAAQS from the 2018 Ozone Maintenance Plan Revision that we previously found adequate and conditionally approved for use in transportation conformity determinations.

C. CAA Section 110(l) Evaluation

In relevant part, CAA section 110(l) provides that the EPA shall not approve a SIP revision that would interfere with any applicable requirement concerning attainment or RFP of any of the NAAQS or any other applicable requirement of the CAA. The 2018 Ozone Maintenance Plan Revision established budgets that are larger than those that were previously approved from the 2011 Ozone Maintenance Plan. Thus, approval of the 2018 Ozone Maintenance Plan Revision accommodated a higher level of VOC and NO_X emissions from on-

[40] Memorandum dated April 20, 2021, from Karina O'Connor, Air Planning Office, EPA Region IX, "Adequacy Documentation for Plan Motor Vehicle Emission Budgets in August 2020 Clark County Revision to Ozone Maintenance Plan." This memorandum has been uploaded to the docket (EPA-R09-OAR-2021-0368) for this rulemaking.

road mobile source emissions than would otherwise be allowed under the previous budgets. In our approval of the 2018 Ozone Maintenance Plan Revision, we evaluated the higher level of VOC and NO_X emissions with respect to the potential for interference with RFP and attainment of the NAAQS for which VOC and NO_X are precursors, namely, the 2008 and 2015 ozone NAAQS.[41]

In our conditional approval of the 2018 Ozone Maintenance Plan Revision, we determined that if the 2018 Ozone Maintenance Plan Revision were revised to reduce the safety margin allocations to the budgets such that total estimated emissions in 2022 (with the allocations) would not exceed actual emissions in year 2017, then the updated budgets would not interfere with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS.

1. 2008 Ozone NAAQS

As noted in Section II.B of this document, in 2012, the EPA designated all the hydrographic areas within the State of Nevada as unclassifiable/attainment for the 0.075 ppm 2008 ozone NAAQS based on ambient ozone concentration data for years 2009-2011.[42] After the original designation, the 8-hour ozone design values within Clark County exceeded the 2008 ozone NAAQS for a few years but, since 2015, the design values have generally returned to attainment levels for the 2008 ozone NAAQS. As shown in Table 1, the design value in year 2017 was 0.074 ppm, which is consistent with attainment of the 0.075 ppm 2008 ozone NAAQS. Thus, emissions of VOC and NO_X in 2017 represent conditions under which Clark County meets the 2008 ozone NAAQS.

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[41] As a general matter, VOC and NO_X are also considered precursors for course particulate matter (PM_{10}) and fine particulate matter ($PM_{2.5}$). In our conditional approval of the 2018 Ozone Maintenance Plan Revision, we concluded that the revised budgets, even with the substantial safety margins, would not interfere with attainment or maintenance of the PM_{10} or $PM_{2.5}$ NAAQS. 84 FR 33035, at 33043-33044 (July 11, 2019) (proposed rule), finalized at 84 FR 44699 (August 27, 2019). Clark County is designated as attainment for the PM_{10} NAAQS and unclassifiable/attainment for the $PM_{2.5}$ NAAQS. 40 CFR 81.329. In this document, we are proposing approval of budgets that have been revised to substantially reduce the safety margins, and thus, the potential for interference with attainment or maintenance of the PM_{10} or $PM_{2.5}$ NAAQS is even less than it was previously. As such, we find that approval of the 2020 Ozone Maintenance Plan Revision would not interfere with attainment or maintenance of the PM_{10} or $PM_{2.5}$ NAAQS in Clark County.

[42] Letter dated December 9, 2011, from Jared Blumenfeld, Regional Administrator, EPA Region IX, to Brian Sandoval, Governor, State of Nevada.

In recognition of the need to avoid interference with attainment of the 2008 ozone NAAQS and progress toward attainment of the 2015 ozone NAAQS, NDEP and Clark County DES committed to submit a SIP revision to reduce the safety margin allocations to the 2022 budgets such that total estimated emissions in 2022 (with the allocations) would not exceed actual emissions in year 2017, a year in which Clark County was attaining the 2008 ozone NAAQS.

As shown in Table 2 of this document, the 2020 Ozone Maintenance Plan Revision estimates year 2017 emissions in Clark County to be approximately 119 tpd of NO_X and 488 tpd of VOC. In 2022, as shown in Table 3 of this document, the 2020 Ozone Maintenance Plan Revision estimates year 2022 emissions in Clark County to be approximately 116 tpd of NO_X and 485 tpd of VOC, including the allocated ERCs for stationary sources and transportation conformity safety margins for on-road mobile sources. As such, ozone precursor emissions in year 2022 under the 2020 Ozone Maintenance Plan Revision would be less than those in 2017, a year in which Clark County was attaining the 2008 ozone NAAQS. As such, we find that the 2020 Ozone Maintenance Plan Revision would not interfere with attainment of the 2008 ozone NAAQS in Clark County.

2. 2015 Ozone NAAQS

In 2018, the EPA designated the Las Vegas Valley (i.e., hydrographic area #212) as a Marginal nonattainment area for the 0.070 ppm 2015 ozone NAAQS based on ambient ozone concentration data for years 2015-2017.[43] The 2017 ozone design value is 0.074 ppm. To attain the 0.070 ppm 2015 ozone NAAQS by the applicable Marginal area attainment date, i.e., by August 3, 2021, VOC and NO_X emissions must decrease relative to those in 2017. NDEP and Clark County DES committed to revise the 2018 Ozone Maintenance Plan Revision and the associated safety margins for the budgets so that, the total projected emissions (with the reduced

[43] EPA, "Nevada, Las Vegas Nonattainment Area, Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards, Technical Support Document (TSD)."

safety margin allocations) in year 2022 would be less than the actual emissions estimated for year 2017, the base year for implementation of the 2015 ozone NAAQS.

With respect to the 2015 ozone NAAQS, we are finding that ozone precursor emissions in year 2022 under the 2020 Ozone Maintenance Plan Revision would be less than those in 2017, the base year for implementation of the 2015 ozone NAAQS. As such, we find that the 2020 Ozone Maintenance Plan Revision would not interfere with RFP towards attainment of the 2015 ozone NAAQS.

VI. Proposed Action and Request for Public Comment

For the reasons discussed herein, under CAA section 110(k)(3), the EPA is proposing to approve the 2020 Ozone Maintenance Plan Revision submitted by NDEP on September 30, 2020, as a revision for the Clark County portion of the Nevada SIP. We are proposing to approve the 2020 Ozone Maintenance Plan Revision because we find that the 2011 Ozone Maintenance Plan, as revised by the 2018 Ozone Maintenance Plan Revision, and as further revised by the 2020 Ozone Maintenance Plan Revision, continues to provide for maintenance of the 1997 ozone NAAQS and will not interfere with RFP or attainment of the other NAAQS in Clark County. The EPA is also proposing to approve the updated budgets for 2022 for the 1997 ozone NAAQS (shown in Table 4 of this document) based on our conclusion that the updated budgets meet the applicable transportation conformity and other CAA requirements.

If the EPA takes final action to approve the 2020 Ozone Maintenance Plan Revision as proposed, the revised budgets will replace the corresponding approved budgets from the 2018 Ozone Maintenance Plan Revision, and RTC and DOT must use the revised budgets for future transportation conformity determinations for the 2015 ozone NAAQS until motor vehicle emissions budgets for that ozone NAAQS are found adequate or are approved.[44]

[44] In addition, if we finalize this action as proposed, we will be removing the conditional approval regulatory text found at 40 CFR 52.1475(a).

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve a state plan as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355,

May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony has areas of Indian country geographically located within the Clark County 1997 ozone maintenance area. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq*.

Dated: July 19, 2021.

Deborah Jordan,
Acting Regional Administrator,
EPA Region IX.

[FR Doc. 2021-16644 Filed: 8/6/2021 8:45 am; Publication Date: 8/9/2021]